IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH JANUARY 2007 / 14TH POUSHA, 1928

Crl.MC.No. 28 of 2007()

CC.461/2005 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

.....

PETITIONER: COMPLAINANT

REJULA.P.N., D/O.P.K.NOOH,
AGED 20 YEARS, PUTHU KUDIPARAMBIL VEEDU,
PONNARIMANGALAM, MULAVUKADU (PO).

BY ADV. SMT.K.V.BHADRA KUMARI

RESPONDENTS: ACCUSED NOS.1 TO 3 & STATE

---

1. P.S.SHAKEER HUZAIN, S/O.SHAMSU,
C/O.K.J.DANIEL, KOMOROTH HOUSE,
NEAR MATTE TEMPLE, PERUMBADAPPU (PO),
PALLURUTHY.

2. SHAMSU, C/O.K.J.DANIEL,
KOMOROTH HOUSE, NEAR MATTE TEMPLE,
PERUMBADAPPU (PO), PALLURUTHY.

3. SULEKHA, W/O.SHAMSU,
C/O.K.J.DANIEL, KOMOROTH HOUSE,
NEAR MATTE TEMPLE, PERUMBADAPPU (PO),
PALLURUTHY.

4. STATE OF KERALA, REPRESENTED BY
S.I. OF POLICE, PALLURUTHY, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

R4 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 28 of 2007

- -

Dated this the 4th day of January, 2007

O R D E R

The petitioner is the complainant in a prosecution under Section 498A I.P.C. The first respondent/accused herein is her husband and respondents 2 and 3 are the parents of the husband. Cognizance has been taken of the offence under Section 498A r/w 34 I.P.C. as C.C.No. 461 of 2005 by the learned J.F.C.M. -II, Kochi. There were connected matters pending before the Family Court also.

2. The petitioner has come to this Court with a prayer that the prosecution initiated at her instance may now be quashed. According to her there was conciliation of the matter before the Family Court and the dispute has been settled amicably between the parties. A joint compromise petition incorporating the terms has been filed before the Family Court, a copy of which is produced as Annex.II. The matrimonial tie has been put an end to and arrangements for payments have mutually been agreed. The petitioner has undertaken before the Family Court that the prosecution initiated by her shall be brought to termination at her instance.

3. The offence is not compoundable and it is in these circumstances that she has come before this Court with the prayer that powers under Section 482 Cr.P.C. may be invoked. Eventhough the offence is not compoundable, the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386) is pressed into service to justify the prayer for quashing the proceedings.

4. It is trite that powers under Section 482 Cr.P.C. can be invoked in the interests of justice and at times the interests of justice may transcend the interests of mere law. This, I am satisfied in the circumstances explained above, is a fit case where at the instance of the petitioner, who had complained of a matrimonial dispute such powers can be invoked and such proceedings can be brought to premature termination. It is not necessary to wait for issue and return of notice to the respondents. The learned Prosecutor does not raise any objections.

5. This Crl.M.C. is hence allowed. C.C.No.461 of 2005 pending before the J.F.C.M. -II, Kochi on the basis of the complaint filed by the petitioner is hereby quashed.

(R. BASANT)
Judge

tm